

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

Cordaeyl Robinson,
12203 Wickson Ct,
Huntersville NC, 28078,

Plaintiff,

vs.

Officer J. Duggins,
Detective Rick Smith,
Charlotte Mecklenburg Police Dept

Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NUMBER: 24CV037547-590

JURY REQUESTED ☐

COMPLAINT

I, the Plaintiff(s), complaining of the Defendant(s), say and allege that

1. The Plaintiff is a citizen and resident of Mecklenburg County, North Carolina.
2. The Defendant is a citizen and resident of Mecklenburg County, North Carolina.
3. The Court has jurisdiction over this matter.
4. (State what the Defendant has done to cause the damages you are claiming by listing each wrongful act separately) (See Attachment)

A. Malicious Prosecution

B. Wrongful Arrest

C. Wrongful Detention

D. _____

WHEREFORE, the Plaintiff demands judgment against the Defendant for:

I am asking the court to award judgment against the Defendant(s) in the sum of \$ 1,000,000
(state claimed damages)

I am also asking for reimbursement of my court costs and interest at the legal rate from the date of judgment.

For such other, further, and different relief to which the Plaintiff may be entitled.

This the 14 day of August, 2024.

Cordaryl Robinson
Plaintiff
12203 Wickson Court
Address
Huntersville / NC / 28078
City/State/Zip
(704) 977-3921
Telephone

VERIFICATION

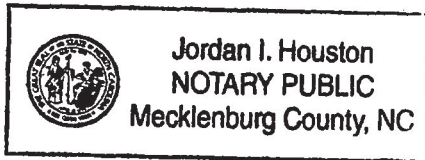
Cordaryl Robinson says that he/she is the Plaintiff in this matter, that he/she has read and understood this COMPLAINT and knows the contents to be true of his/her own personal knowledge, except for those matters and things set forth upon information and belief; and as to those matters and things, he/she believes them to be true.

SE Ri
Plaintiff

Sworn to and subscribed before me this 14th day of August, 2024.

Jordan I. Houston
Notary Public

My commission expires: 8/20/2028.



Malicious Prosecution, Falsely Arrested, and False Imprisonment caused by the deliberate indifference of Officer J. Duggins OF THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT ("CMPD") employees, including CMPD Crime Stoppers Detective Rick Smith, As discussed below, it is my understanding that CMPD Officer J. Duggins were called on the scene to a crime that was being committed which ACCUSED me (Mr. Robinson) in connection with an invalid arrest warrant issued to arrest and MANHUNT ME (Mr. Robinson) in connection with a suspected home break-in at the Genesis Park neighborhood just outside of Uptown on New Year's Eve and terrorized the people inside. (I) Mr. Robinson was then falsely accused on the NEWS Broadcasting Network causing a false narrative that subsequently led to (My) Mr. Robinson false arrest and false imprisonment. However, any cursory investigation of the incident would have revealed that (I) Mr. Robinson was not the person involved.

I was falsely imprisoned for five days as a result of the false Imprisonment and the incident has continued to cause me significant distress, from which I have yet to recover. Officer J. Duggins of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith are "suggested" early in the litigation in this process.

This letter briefly summarizes some of the facts that support my legal claims so that the City understands the substantial liability, including damages, that it will face in a lawsuit under 42 U.S.C. § 1983 and North Carolina state law. As discussed below, Officer J. Duggins of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith are facing clear liability and should take this opportunity to resolve my claims to avoid also incurring needless legal expenses.

The malicious detainment I experienced has had a profound impact on my life, causing not only emotional distress but also significant financial and reputation harm. This unfortunate incident has led to the loss of job opportunities and strained personal relationships.

As a family Man, I have additional burden's in this situation placed on Me (Mr. Robinson) as a parent. The well-being of my children is of utmost importance to me, and I will do everything in my power to seek justice and compensation for the damages I and my family have endured.

A false arrest and detention of a father can have a profound and distressing impact on my three children, all of whom are under the age of 4. Young children are highly sensitive to changes in their environment and the emotional well-being of their parents, and a false arrest can disrupt their sense of security and stability.

Children under the age of 4 may not fully comprehend the complexities of the situation, but they can sense their parent's distress and emotional turmoil. Witnessing their father going through such a traumatic event has left the children feeling anxious, scared, and confused. Young children thrive on routine and predictability, which provides them with a sense of safety and comfort.

The City's false arrest of (Me) Mr. Robinson has disrupted their daily routines, leading to feelings of insecurity and disorientation.

Once their father was taken into custody, Kingston (4yrs) Feb 15th, Kyya (3 yrs) Jan 28th, and Kordaryl Dec 16th (2 yrs) born a few days before my unlawful arrest, have experienced prolonged periods of separation. This absence of a parent figure continues to be emotionally challenging for my young children, leading to their feelings of abandonment and insecurity.

Further, this false arrest has necessitated changes in my children's caregiving arrangements. The mother of the children and partner for 8 years, had to take on a more prominent caregiving role, and immediately left (Me) Mr. Robinson after my arrest. I had never been convicted of a crime before this incident and my partner has not allowed (Me) Mr. Robinson to see my children for over a year.

It is crucial to recognize and address these potential impacts promptly. This has made Me (Mr. Robinson) and seek professional support, such as counseling and therapy for me, which can be essential in helping me cope with the emotional aftermath of a false arrest and work towards healing and recovery. Additionally, ensuring a swift resolution to this false arrest can help restore stability and provide a sense of security for the entire family.

Officer J. Duggins of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith set a course of events into action that has irreparably harmed me by lying to the "MAGISTRATE" to issue a "Invalid Warrant" when in the discovery shows no probable cause for Officer J. Duggins of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT to move forward with the Invalid Warrant. I lost my job and had photos of my arrest posted on the job's worksite with Detective Rick Smith who also issued a Man Hunt and a Crime Stoppers Reward on National TV for an Invalid warrant for my arrest.

I was a Maintenance Director for a healthcare facility and made \$68,640 a year. I have struggled to find employment since the loss of my employment and have been forced to move in with my mother. Losing my job meant the sudden loss of income, which led to financial instability and difficulties in meeting basic living expenses, such as rent or mortgage, utilities, food, and healthcare. I, (Mr. Robinson) had my truck repossessed shortly after my termination for failing to make payments. Officer J. Duggins and of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith false arrest derailed my career path now, resulting in a gap in employment history, which is viewed unfavorably by potential employers during job searches. Employers might be hesitant to hire someone with such a history, even if the arrest was unjust. To falsely accuse Me (Mr. Robinson) and" has diminished and minimized my chances of getting back to my normal life because of a Malicious Prosecution, "Violation of my Civil Rights," and my Constitutional Rights.

This entire experience has eroded my self-confidence and self-esteem, affecting my overall ability to perform well in future job interviews and work-related settings. Finally, Officer J. Duggins OF CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith malicious prosecution and false arrest, has caused Me (Mr. Robinson) immense emotional distress, including feelings of humiliation, anger, anxiety, and helplessness. The emotional toll has been overwhelming and impacts my overall mental well-being. I, (Mr. Robinson) have been diagnosed with PTSD and Extreme Depression is on a host of medications one including "Zoloft" that has never been previously prescribed. All as a result of OFFICER J. DUGGINS OF THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith actions.

I. Malicious Prosecution Under 42 U.S.C. § 1983 and North Carolina Common Law

"[A] malicious prosecution claim under § 1983 is properly understood as a Fourth Amendment claim for unreasonable seizure which incorporates certain elements of the common law tort." *Evans v. Chalmers*, 703 F.3d 636, 646 (4th Cir. 2012). "To state such a claim, a plaintiff must allege that the defendant (1) caused (2) a seizure of the plaintiff pursuant to legal process unsupported by probable cause, and (3) criminal proceedings terminated in plaintiff's favor." *Id.* The Supreme Court has recently clarified that "favorable termination" simply means a prosecution without a conviction. *Thompson v. Clark*, 596 U.S. ____ (2022).

The elements of a claim for malicious prosecution under North Carolina law are substantially identical to a § 1983 malicious prosecution claim and requires (1) initiation by the defendant of an earlier proceeding; (2) lack of probable cause for such initiation; (3) malice, either actual or implied; and (4) termination of the earlier proceeding in favor of the plaintiff. *Jones v. Gwynne*, 312 N.C. 393, 397 (1984).

Here, J. Duggins initiated the criminal proceedings that led to (My) Mr. Robinson's arrest also he convinced Detective Rick Smith to slander my name all over National News Broadcasting Networks, Social Media Networks, and Crime Stoppers and demanded an aggravated and aggressive arrest that lead to false narrative result in Malicious Prosecution, his address listed, also displaying an invalid arrest warrant containing a picture of (Me) Mr. Robinson.

Worse, these charges were dismissed and Expunged immediately by the Assistant District Attorney with-in a week. At the time Officer J. Duggins OF THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith sought to execute an invalid arrest warrant, there was no probable cause to believe that I, (Mr. Robinson) had committed a crime or had a warrant for my arrest. While an investigating officer "need not exhaust every potential avenue of investigation," he or she "must still conduct some sort of investigation and assemble individualized facts that link the suspect to the crime." *Smith v. Munday*, 848 F.3d 248, 254 (4th Cir. 2017) (citation omitted). Moreover, even if a magistrate judge determined there was probable cause

supporting the warrant, that would not shield a police officer if the magistrate was misled. *Miller v. Prince George's Cty.*, 475 F.3d 621, 627-28 (4th Cir. 2007). In addition, a court is not required to defer to a probable cause determination where the magistrate was acting "as a rubber stamp" for the police. *Smith*, 848 F.3d at 255.

It is also important to note that Officer J. Duggins of THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith will not be entitled to qualified immunity on (My) Mr. Robinson's § 1983 claims. See, e.g., *Brown v. Wiita*, 7 F. App'x 275, 279 (4th Cir. 2001) (officers who mistakenly arrest the wrong person are not entitled to immunity when they act in an objectively unreasonable manner in the circumstances, such as, for example, in failing to investigate readily available exculpatory evidence); cf. *Clipper v. Takoma Park*, 876 F.2d 17 (4th Cir. 1989) (officer acted in unreasonable manner in arresting the wrong person for bank robbery where he ignored clearly exculpatory information that was presented to him). Nor would any officer involved be entitled to qualified immunity on the basis of the warrant application. See, e.g., *Miller v. Prince George's Cty.*, 475 F.3d 621, 632 (4th Cir. 2007) ("a reasonable officer cannot believe a warrant is supported by probable cause if the magistrate is misled by omitted facts that the officer knows or should know are false") (denying qualified immunity to a police officer who included misleading information in application for arrest warrant).

The mistaken identity that led to my malicious prosecution, wrongful arrest and detention was a clear violation of his constitutional rights, and it is evident that the actions taken by Officer J. Duggins OF CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith didn't based it on reasonable suspicion or probable cause. Or they would have never "Expunged the charges immediately" It was Malicious Prosecution. Furthermore, it is crucial to note that any assertion of qualified immunity as a defense in this matter would be unfounded and inappropriate. The circumstances surrounding my client's wrongful arrest were the direct result of this officer's failure to adhere to proper protocols and a lack of reasonable investigation into my identity. Qualified immunity will not shield individuals who have demonstrated a reckless disregard for constitutional rights and engaged in conduct that clearly violated my fundamental liberties. I firmly believe that the absence of a qualified immunity defense further strengthens the City's responsibility to address and remedy the injustices inflicted upon me promptly.

MALICIOUS PROSECUTION CLAIMS

I believe malicious prosecution cases resulting in fewer than 6 nights in jail can be measured anywhere from **\$160,000 - \$989,434.88/per night**. This measurement is irrespective of the subjective motivations of the investigating or arresting officers. Put differently, our comparable cases for those who served time exclusively in jail reveal a pattern of nightly damages recoveries that exceed \$160,000 per one night even where the officers' actions amounted to an honest mistake.

- James Wallace Bader v. Peter Oehl, 7:18-cv-0042 (E.D.N.C. 2018): The plaintiff spent three nights in jail after a sloppy criminal investigation resulted in his arrest for sexual assault. Plaintiff suffered a lost marriage, loss of custody of his child, and all of the emotional harm accompanying those life events. Again, the investigating officers were careless but not necessarily accused of maliciously targeting the suspect for improper motives. The police department settled for \$500,000 - more than **\$160,000 per night**.

Daryl Brooks v. Montgomery County, Maryland; 1999 Jury Verdicts LEXIS 61874 (Defendant Montgomery County's police officer stopped plaintiff when he went through a stop sign near plaintiff's residence. Defendant's officer inquired if he had stopped the plaintiff two to three weeks earlier. Plaintiff was black and the defendant officer was white. Defendant officer ran a check on the plaintiff's license and allegedly found outstanding warrants. Plaintiff was arrested, frisked, and incarcerated for 3.5 hours. The warrants were for a man with a similar name, but not identical name. Plaintiff alleged that defendants violated his civil rights, resulting in humiliation and embarrassment. Defendants admitted liability, but contended that plaintiff's arrest was a mistake and that plaintiff suffered no damages. **Award of \$50,000 for 3.5 hours held in custody.**

Julian Christopher Lee v. Federal Bureau of Investigation; 2006 Jury Verdicts LEXIS 47385 (U.S. Marine, was driving to an Encinitas supermarket when he was pulled over by San Diego Sheriff deputies. Lee was ordered out of his car at gun point and was arrested based on an outstanding warrant in a Dade County, Fla., burglary. Lee had no criminal record, but his brother, Robert Q. Lee does, and he was wanted by police for the Dade County burglary. Robert assumed his brother Julian's identity by using his birth date and social security number, along with the name "Christopher" when he was caught committing the crime. The mistaken identity was cleared up after Lee spent four days in a San Diego jail. Settled for \$ 190,000 in 2006, which in today's dollars totals \$287,553.13.

“Traditionally, the fact of an illegal restraint creates the right to recover at least nominal damages... Perhaps in some circumstances that is all a man’s freedom is worth, but though the price tag is a bargain, freedom is never valueless.”

Whirl v. Kern 407 F. 2d 781, 798.

Under North Carolina Law, false imprisonment is the illegal restraint of a person against his or her will. *Fowler v. Valencourt*, 334 N.C. 345, 348, 435 S.E.2d 530, 532 (1993). “If not lawful or consented to, any restraint is unlawful.” *Id.* A false arrest is an arrest without legal authority and is one means of committing a false imprisonment. *Myrick v. Cooley*, 91 N.C. App. 209, 212, 371 S.E.2d 492, 494, disc. review denied, 323 N.C. 477, 373 S.E.2d 865 (1988). Similarly, to state a false arrest claim pursuant to the Fourth Amendment under § 1983, a plaintiff must show that there is no probable cause for the arrest. *Sowers v. Town of Charlotte*, 659 F. App’x 738, 739 (4th Cir. 2016).

Here, there was no probable cause to arrest (Me) Mr. Robinson. Officer J. Duggins executed the warrant by making a false statement to the Magistrate and Curwensed Detective Rick Smith to broadcast it via Social Media and News outlets. Accordingly, Officer J. Duggins OF THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT and Detective Rick Smith is liable to (ME) Mr. Robinson for my arrest. In addition, the THE CITY OF CHARLOTTE MECKLENBURG POLICE DEPARTMENT is liable, under respondeat superior, for the officers’ actions. Again, the charges listed in the arrest warrant were dismissed and Expunged Immediately by the State, Because of their knowingly Malicious Prosecution, False Arrest and False Imprisonment.

CONCLUSION

I realize that the CMPD will likely deny that any wrongdoing occurred. However, at the very least, there will be issues of fact that preclude summary judgment on all of Mr. Robinson’s anticipated claims. Furthermore, as described above, the law regarding qualified immunity as it relates to (My) Mr. Robinson’s claims were clearly established by the date of the incident and, at the very least, there will be disputed issues of fact that preclude the grant of qualified immunity at the motion to dismiss or summary judgment stages. Accordingly, the City is facing real liability and should seize the opportunity to explore settlement at this early stage. I believe this to be a reasonable offer, particularly in light of My (Mr. Robinson’s) detention length, the significant distress I suffered, and the ease with which my protestations of innocence could have been confirmed. Juries in the United States Court of Appeals for the Fourth Circuit have awarded more than this amount for less time spent incarcerated. *See Clipper*, 876 F.2d at 18 (affirming finding of liability in case where jury awarded plaintiff \$304,355 for arresting and jailing plaintiff for six days based on mistaken identity) (Adjusted for inflation, about \$710,757.43 today).

DATE: August 14, 2024

TIME: 2:29:49 PM

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY
CLERK OF SUPERIOR COURT

No.

24CV037547-590

In The General Court Of Justice

Cory C. Rosado

Name And Address Of Plaintiff

Cordaryl Robinson
12803 Wickson court
Huntersville NC 28078

VERSUS

Name And Address Of Defendant

Detective Rick Smith

(CMED) CRIME STOPPERS

SERVICEMEMBERS CIVIL RELIEF ACT
DECLARATION

G.S. Ch. 127B, Art. 4; 50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

DECLARATION

I, the undersigned Declarant, under penalty of perjury declare the following to be true:

1. As of the current date: (check one of the following)

☐ a. I have personal knowledge that the defendant named above is in military service.*☐ b. I have personal knowledge that the defendant named above is not in military service.*☒ c. I am unable to determine whether the defendant named above is in military service.*2. As of the current date, I ☐ have ☒ have not received a copy of a military order from the defendant named above relating to State active duty as a member of the North Carolina National Guard or service similar to State active duty as a member of the National Guard of another state. See G.S. 127B-27 and G.S. 127B-28(b).3. I ☐ used ☒ did not use the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the defendant's federal military service.☐ The results from my use of that website are attached.

(NOTE: The Servicemembers Civil Relief Act Website is a website maintained by the Department of Defense (DoD). If DoD security certificates are not installed on your computer, you may experience security alerts from your internet browser when you attempt to access the website.

Members of the North Carolina National Guard under an order of the Governor of this State and members of the National Guard of another state under an order of the governor of that state will not appear in the SCRA Website database.)

4. The following facts support my statement as to the defendant's military service: (State how you know the defendant is or is not in the military. Be specific.)

I've never met him a day in my life,

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2). The term "military service" also includes the following: State active duty as a member of the North Carolina National Guard under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days; service as a member of the National Guard of another state who resides in North Carolina and is under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days. G.S. 127B-27(3) and G.S. 127B-27(4).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Date

08-14-2024

Signature Of Declarant

SE [Signature]

Name Of Declarant (type or print)

Cordaryl Robinson

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit or declaration (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

STATE OF NORTH CAROLINA
CLERK OF SUPERIOR COURT

File No.

24CV037547-590

Mecklenburg

BY: C. Rosado
County

In The General Court Of Justice

Name And Address Of Plaintiff

Cordaryl Robinson
12203 Wickson Ct
Huntersville NC, 28078

VERSUS

Name And Address Of Defendant

Officer J. Duggins

Charlotte Mecklenburg Police Department

SERVICEMEMBERS CIVIL RELIEF ACT
DECLARATION

G.S. Ch. 127B, Art. 4; 50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

DECLARATION

I, the undersigned Declarant, under penalty of perjury declare the following to be true:

1. As of the current date: (check one of the following)

☐ a. I have personal knowledge that the defendant named above is in military service.*

☐ b. I have personal knowledge that the defendant named above is not in military service.*

☒ c. I am unable to determine whether the defendant named above is in military service.*

2. As of the current date, I ☐ have ☒ have not received a copy of a military order from the defendant named above relating to State active duty as a member of the North Carolina National Guard or service similar to State active duty as a member of the National Guard of another state. See G.S. 127B-27 and G.S. 127B-28(b).

3. I ☐ used ☒ did not use the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the defendant's federal military service.

☐ The results from my use of that website are attached.

(NOTE: The Servicemembers Civil Relief Act Website is a website maintained by the Department of Defense (DoD). If DoD security certificates are not installed on your computer, you may experience security alerts from your internet browser when you attempt to access the website. Members of the North Carolina National Guard under an order of the Governor of this State and members of the National Guard of another state under an order of the governor of that state will not appear in the SCRA Website database.)

4. The following facts support my statement as to the defendant's military service: (State how you know the defendant is or is not in the military. Be specific.)

I've never met this guy a day in my life.

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2). The term "military service" also includes the following: State active duty as a member of the North Carolina National Guard under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days; service as a member of the National Guard of another state who resides in North Carolina and is under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days. G.S. 127B-27(3) and G.S. 127B-27(4).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

| | | |
|--------------------|---------------------------------------|--|
| Date 08-14-2024 | Signature Of Declarant <i>SE R</i> | Name Of Declarant (type or print) Cordaryl Robinson |
|--------------------|---------------------------------------|--|

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit or declaration (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

Information About Servicemembers Civil Relief Act Affidavits And Declarations

1. Plaintiff to file affidavit/declaration

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2).

State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

3. Defendant's military status not ascertained by affidavit/declaration

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

4. Satisfaction of requirement for affidavit/declaration

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury. 50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

5. Penalty for making or using false affidavit/declaration

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).

STATE OF NORTH CAROLINA

FILED

DATE: August 14, 2024

File No.

24CV037547-590

Mecklenburg

County

TIME: 2:47:45 PM

MECKLENBURG COUNTY

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name Of Plaintiff

Cordaryl Robinson

CLERK OF SUPERIOR COURT

BY: M. Woodard

VERSUS

PETITION TO PROCEED
AS AN INDIGENT

Name Of Defendant

(Duggins, J) (Smith, Rick) Charlotte Mecklenburg Police Department

G.S. 1-110; 7A-228

AFFIDAVIT

(check one of the four boxes below)

☐ **Petition To Assert Claims** - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs for the prosecution of the claims I have asserted. Therefore, I now petition the Court for an order allowing me to assert my claims as an indigent.☐ I am an inmate in the custody of the Division of Prisons of the Department of Adult Correction.

(NOTE TO CLERK: If this block is checked, this Petition must be submitted to a Superior Court Judge for disposition provided on the reverse.)

☒ **Petition To File Motions** - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs to file a notice of hearing on a motion. Therefore, I now petition the Court for an order allowing me to file my motion as an indigent.☐ **Petition To Appeal** - As the individual appellant in the above entitled small claims action, I affirm that I am financially unable to pay the cost for the appeal of this action from small claims to district court. Therefore, I now petition the Court for an order allowing me to appeal this action to district court as an indigent.☐ **Petition To File Expunction Petition** - As the petitioner in the above entitled action, I affirm that I am financially unable to advance the required costs to file an expunction petition. Therefore, I now petition the Court for an order allowing me to file my expunction petition as an indigent.

(check one or more of the boxes below as applicable)

☒ I am presently a recipient of☒ Supplemental Nutrition Assistance Program (SNAP/food stamps).☒ Temporary Assistance for Needy Families (TANF).☒ Supplemental Security Income (SSI).☐ I am represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons, or I am represented by private counsel working on behalf of such a legal services organization. (Attach a letter from your legal services attorney or have your attorney sign the certificate below.)☒ Although I am not a recipient of SNAP/food stamps, TANF, or SSI, nor am I represented by legal services, I am financially unable to advance the costs of filing this action or appeal.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

CLERK OF SUPERIOR COURT

Date

8-14-2024

Date
8/14/2024

Signature

Signature Of Petitioner

Title Of Person Authorized To Administer Oaths

Deputy CSC

Name And Address Of Petitioner (type or print)

12203 Wickson court
Huntersville NC, 28078

SEAL

Date Commission Expires

CERTIFICATE OF LEGAL SERVICES/PRO BONO REPRESENTATION

I certify that the above named petitioner is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons or is represented by private counsel working on behalf of or under the auspices of such legal services organization.

Date

Signature

Name And Address (type or print)

ORDER

Based on the Affidavit appearing above, it is ORDERED that:

☒ the petitioner is authorized to assert claims, to appeal, or file notices of hearing or petitions in this action as an indigent.☐ the petition is denied.Date
14th of August, 2024

Signature

Mitchell

Woodard

☒ Assistant CSC☐ Judge☐ Clerk Of Superior Court☐ Magistrate (for appeal only)

NOTE TO CLERK: If the petitioner is NOT a recipient of SNAP/food stamps, TANF, SSI or is NOT represented by legal services or a private attorney on behalf of legal services, you may ask for additional financial information to determine whether the petitioner is unable to pay the costs.

ORDER - DIVISION OF PRISONS INMATES

The undersigned superior court judge of this district finds that the petitioner is an inmate in the custody of the Division of Prisons of the Department of Adult Correction and that the complaint

☐ is not frivolous.

☐ is frivolous.

It is ORDERED that

☐ the petitioner is authorized to sue in this action as an indigent.

☐ the petitioner is not authorized to sue as an indigent.

☐ the action is dismissed.

Date

Name Of Superior Court Judge (type or print)

Signature Of Superior Court Judge

CERTIFICATION

I certify that this Petition has been served on the party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE: G.S. 1-110(b) provides: "The clerk of superior court shall serve a copy of the order of dismissal upon the prison inmate."

FILED

DATE: August 21, 2024

TIME: 3:08:49 PM

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY
CLERK OF SUPERIOR COURT

File No.

24 CV 037547590

Mecklenburg County
BY: A. YeamanIn The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff(s)

Cordaryl Robinson
VERSUS

Name Of Defendant

Officer J. Duggins

AFFIDAVIT OF SERVICE OF PROCESS BY

- ☐ REGISTERED MAIL
☒ CERTIFIED MAIL
☐ DESIGNATED DELIVERY SERVICE

G.S. 1-75.10(a)(5), (a)(6); 1A-1, Rule 4(j2)

I, the undersigned, did mail by ☐ registered mail (return receipt requested), ☒ certified mail (return receipt requested),
☐ designated delivery service (delivery receipt requested),
 a copy of the summons and complaint ☐ and other document(s) (list) _____

in the above captioned action to (name of person to be served) _____,
 addressed as follows: _____

Further, that copies of the summons and complaint ☒ and the above listed other document(s) (check, if applicable) were in fact
 received by the defendant on (date of receipt) 8/21/2024, as evidenced by the attached original receipt.
 (Attach original receipt or electronic proof of signature confirmation to this affidavit.)

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Plaintiff/Attorney

[Signature]

Date

8/21/2024

Signature Of Person Authorized To Administer Oaths

[Signature]

Name (type or print)

Cordaryl Robinson

Title Of Person Authorized To Administer Oaths

Notary

☒ Notary

Date My Commission Expires

8/20/2028

SEAL

County Where Notarized

Mecklenburg

Jordan I. Houston
NOTARY PUBLIC
Mecklenburg County, NC

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

601 East Trade street
Charlotte, NC 28202

9590 9402 6499 0346 0588 19

2. Article Number (Transfer from service label)

9589 0710 5270 0965 0241 17

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

red Mail
 red Mail Restricted Delivery
 r \$500)

AOC-CV-105, New 8/17
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PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

STATE OF NORTH CAROLINA

File No.

24CV037547-590

Mecklenburg CountyIn The General Court Of Justice
☐ District ☐ Superior Court Division

Name Of Plaintiff

Cordaryl Robinson

Address

12203 Wickson Court

City, State, Zip

Huntersville NC 28078

VERSUS

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

Officer J. Duggins
Detective Rick Smith
Charlotte Mecklenburg Police Dept.

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Officer J. Duggins
Charlotte Mecklenburg Police
601 E. Trade St

Name And Address Of Defendant 2

Detective Rick Smith
Charlotte Mecklenburg Police
Stoppers 601 E. Trade St
Charlotte, NC 28202

IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out!
You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha enablado un proceso civil en su contra! Estos papeles son documentos legales.
¡NO TIRE estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Cordaryl Robinson
12203 Wickson Ct
Huntersville, NC 28078

Date Issued

8/14/2024

Time

2:30:57 PM

☐ AM☐ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

| | | |
|-------------|--|-------------------|
| Date Served | Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Defendant |
|-------------|--|-------------------|

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Acceptance of service.
Summons and complaint received by: ☐ Defendant 1.
☐ Other: (type or print name)

Date Accepted

Signature

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

| | | |
|-------------|--|-------------------|
| Date Served | Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Defendant |
|-------------|--|-------------------|

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Acceptance of service.
Summons and complaint received by: ☐ Defendant 2.
☐ Other: (type or print name)

Date Accepted

Signature

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

| | |
|------------------------|---|
| Service Fee Paid \$ | Signature Of Deputy Sheriff Making Return |
| Date Received | Name Of Sheriff (type or print) |
| Date Of Return | County Of Sheriff |